

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

McLAREN MACOMB
Employer

and

Case 07-RC-243228

LOCAL 40, RN STAFF COUNCIL, OFFICE AND
PROFESSIONAL EMPLOYEES
INTERNATIONAL UNION (OPEIU) AFL-CIO
Petitioner

ORDER

The Employer's Requests for Review of the Regional Director's Decision and Direction of Election, and of the Decision on Objections 1 and 4, are denied as they raise no substantial issues warranting review.¹ The Employer's request to stay the election is denied as moot.

JOHN F. RING, CHAIRMAN

MARVIN E. KAPLAN, MEMBER

WILLIAM J. EMANUEL, MEMBER

Dated, Washington, D.C., April 14, 2020.

¹ In denying review of the Regional Director's finding that the Employer's cardiography technicians are not technical employees, we do not rely on her characterization of them as "akin to" ordinary ECG technicians in such cases as *Barnert Memorial Hospital Center*, 217 NLRB 775 (1975), given that the duties of the Employer's cardiography technicians go beyond performing routine electrocardiogram tests. Nevertheless, the evidence here does not establish that the cardiography technicians' duties require the use of independent judgment sufficient to establish technical employee status.

In denying review of the Regional Director's decision overruling Objection 1, we acknowledge that the incumbent union had the right to intervene and appear on the ballot. However, we reject the Employer's assertion that where, as here, an incumbent union has chosen not to intervene in a representation proceeding, the Regional Director was required proactively to invite the union to appear on the ballot. Contrary to the Employer's assertions, neither *St. Mary's Duluth Clinic Health System*, 332 NLRB 1419 (2000), nor *Kaiser Foundation Health Plan of Colorado*, 333 NLRB 557 (2001), establishes such a requirement.

The Employer's Request for Review of the Regional Director's Decision and Certification of Representative remains pending, and will be ruled on separately.